IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 22411 of 1994

Between:

Chandrakala Badruka, W/o.Hariprasad Badruka,

Aged about 50 years, Occu: Household,

R/o.H.No.8-1-387, Toli Chowki, Hyderabad.

..... PETITIONER

AND

Municipal Corporation of Hyderabad,

Rep. by its Commissioner,

Municipal Complex, Tank Bund, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ in the nature of Mandamus or any other Writ or Writs, direction or orders against the respondent directing it to refer the case to competent Civil Court for determining the sufficiency of the compensation payable to the petitioner.

Counsel for the Petitioner: MR. PRAVEEN VYAPARI

Counsel for the Respondent: SMT. G.JYOTHI KIRAN, STANDING COUNSEL FOR MUNICIPAL CORPORATION OF HYDERABAD.

The Court made the following:

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THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.22411 of 1994

Order:

By this writ petition, the petitioner seeks a direction to the respondent-Municipal Corporation of Hyderabad to refer her case to competent Civil Court for determination of sufficient compensation in respect of a Well and fruit bearing trees situated in the share of her property which was acquired by the respondent, for the purpose of road widening.

The petitioner claims to be co-owner of the premises bearing No.8-1-387, situated at Toli Chowki, Hyderabad, which was acquired by the respondent-Corporation for the purpose of road widening at Toli Chowki junction. She states that compensation in respect of land and structures was only paid, that too after making a lot of correspondence with the respondent and Quli Qutab Shah Urban Development Authority, which is a party to the acquisition proceedings, but no compensation was paid to her in respect of a Well, which was spread in an area of 200 square yards of site constructed with granites, and fruit-bearing trees, situated in the share of her property of 1975.5 square yards, acquired for road widening. According to her, the said Well was valued at Rs.5,53,246-92 ps. by a Chartered Engineer as per his report dated

3-12-1986, and the fruit-bearing trees were estimated at Rs.1,00,000/-. She states

that after a lot of correspondence she had with the respondent and in pursuance of the order of this Court dated 26-4-1994 made in W.P. No.1009 of 1994, the respondent paid an amount of Rs.1,45,600/- only towards compensation for the Well and fruit-bearing trees, which she received under protest and without prejudice to her rights in the claim. Dissatisfied with the said amount of compensation paid by the respondent, the petitioner submitted representation dated 23-7-1994 and also got issued a legal notice dated 24-8-1994 demanding the respondent either to pay the compensation for the Well as per the valuation report of the Chartered Engineer, dated 03-12-1986, i.e. at Rs.5,53,246-92 ps. and for the fruit-bearing trees as per her estimation at Rs.1,00,000/- after deducting the payment already made in that respect, or to refer the matter to competent Civil Court for determination of sufficient compensation, but the respondent has not taken any action in the matter so far. Hence, the present writ petition.

Even though the present writ petition was admitted on
27-12-1994, no counter-affidavit has been filed by the respondent nor did they produce the original record. When the matter came up on 10-8-2004, this Court directed the learned Standing Counsel for the respondent-Corporation to produce original record and adjourned the matter at her request. When the matter came up today, no original record has been produced, and the learned Standing Counsel appearing for the respondent submits that she does not have any record.

In the circumstances, it has to be presumed that the case put forth by the petitioner in this writ petition is true and the respondent has no reason to deny the relief.

Accordingly, the writ petition is allowed as prayed for. No costs.

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(N.V.RAMANA, J)

Dated: 26th August, 2004.

Ksr/Ak*

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday, the twenty sixth day of August, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Commissioner, Municipal Corporation of Hyderabad,

Municipal Complex, Tank Bund, Hyderabad.

2.Two CD copies.